REMARKS

Status of the Claims.

Claims 26-28, 37, and 61-63 are pending with entry of this amendment, claims 1-25, 29-36, 38-56, 57-60, being canceled and no claims being added herein. Claim 26 is amended herein. Support for this amendment is found, for example, at page 20, lines 19-21 and the like.

Objection to the specification.

The Examiner objected to the specification because it allegedly ". . . contains empty space, for example on page 2, line 17." Applicants have reviewed the specification and note that there is no empty space on page 2 at line 17.

Moreover, Applicants are unaware of any rule precluding empty space in a specification. If the Examiner wishes to maintain this objection, Applicants request that the rule addressing empty space be identified and the location of such alleged empty space also be specifically identified.

35 U.S.C. §102(b).

The Examiner rejected claims 26-28, 37, and 61-63 under 35 U.S.C. §102(b) as allegedly anticipated by Tanner *et al.* (1994) *Cancer Res.*, 54: 4257-42660. Applicants traverse.

The Examiner is respectfully reminded that anticipation requires that "**all limitations** of the claim are found in the reference, or 'fully met' by it." *Kalman v Kimberly-Clark Corp.*, 218 USPQ 781, 789 (Fed. Cir. 1983). In the instant case, claim 26, as amended herein, recites:

26. A method of detecting in a sample the presence or absence of breast cancer cells having an increased copy number of nucleic acid sequences at chromosome region 20q13.2, the method comprising:

contacting a nucleic acid sample from breast tissue cells of a human patient with a probe which specifically hybridizes under stringent conditions to a target polynucleotide sequence consisting of the sequence of SEQ ID NO:9, or the complement thereof, wherein said stringent conditions include washing with 0.2x SSC at 65°C for 15 minutes, wherein the probe is contacted with the sample under conditions in which the probe hybridizes selectively with the target polynucleotide sequence to form a stable hybridization complex; and

detecting the formation of a hybridization complex **to determine a copy number of ZABC1** in chromosomal region 20q13.2, where **an increased copy number of ZABC1**

indicates the presence of a breast cancer cell that is likely to progress to a more malignant phenotype.

Tanner *et al.* fails to disclose a method that involves determining a copy number of ZABC1. To the contrary, ZABC1 is nowhere mentioned in the reference. Indeed, Tanner *et al.* expressly states:

> Therefore, **it is likely that the gene (or genes) that are selected for by this copy number increase are currently unknown**. [emphasis added] (page 4260, col. 2)

Tanner *et al.* thus fails to disclose all of the elements of the presently pending claims. Accordingly the rejection under 35 U.S.C. §102(b) on these grounds should be withdrawn.

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Should the Examiner seek to maintain the rejections, Applicants hereby expressly request, on the record, that the Examiner call Applicants to arrange a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 267-4161.

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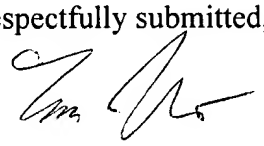
Respectfully submitted,



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